

**STATE OF MICHIGAN  
DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES  
BUREAU OF HEARINGS**

**In the matter of**

**Docket No. 2001-1941**

**Michigan Division of Insurance,  
Petitioner**

**Agency No. 01-886**

**v  
Connie T. Hildreth,  
Respondent**

**Agency: Office of Financial &  
Insurance Services**

**Case Type: Sanction**

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**Issued and entered  
this            day of July, 2002  
by Edward F. Rodgers  
Administrative Law Judge**

**PROPOSAL FOR DECISION**

**PROCEDURAL HISTORY**

This matter commenced with the receipt of a Request for Hearing from the Office of Financial and Insurance Services, Michigan Division of Insurance (OFIS), by the Bureau of Hearings (Bureau) on November 27, 2001. Following receipt of the Request for Hearing, the Bureau issued and entered a Notice of Hearing on November 28, 2001. The Notice of Hearing issued by the Bureau scheduled a contested case hearing for January 23, 2002.

On January 16, 2002, the Bureau received from the Respondent, Connie T. Hildreth, a request to adjourn the January 23, 2002, hearing date. This request was granted by the Judge and he issued an Order on January 31, 2002, rescheduling the

contested case hearing to commence on February 26, 2002.

On February 25, 2002, the Bureau received the Respondent's second request for adjournment. This request was also granted by the Judge. On March 8, 2002, the Judge issued an order rescheduling the matter to commence on May 17, 2002, at 9:00 a.m.

The Notice of Hearing in this matter indicates that this case would be conducted in accordance with the provisions applicable to the trial of contested cases under the Administrative Procedures Act, 1969 PA 306, as amended, being MCL 24.201 et seq (APA).

Further, the Notice of Hearing indicated that if the Respondent failed to appear at the hearing as scheduled, a Default Judgment or Decision may be entered against the Respondent pursuant to the APA.

The Notice of Hearing also indicated that this matter was being held under the jurisdiction of the Michigan Insurance Code of 1956, being MCL 500.100 et seq (Code).

Section 72 of the APA, being MCL 24.272, states in pertinent part, "If a party fails to appear in a contested case after proper service of notice, the agency, if no adjournment is granted, may proceed with the hearing and make a decision in absence of the party".

Section 78 of the APA, being MCL 24.278, states in pertinent part, “except as otherwise provided by law, disposition may be made of a contested case by . . . default . . .”.

On May 17, 2002, the hearing commenced at 9:35 a.m. The matter had been scheduled pursuant to the Judge’s March 8, 2002, Order to commence at 9:00 a.m.

At the outset of the contested case hearing, Mr. Laurence Wood, Attorney at Law, from OFIS, filed his appearance on behalf of the Petitioner. Neither the Respondent nor an attorney appeared on behalf of the Respondent at the hearing.

Mr. Wood requested that he be allowed to proceed in absence of the Respondent, pursuant to Section 72 of the APA, and that a Default Judgment be granted pursuant to Section 78 of the APA.

The Judge found under Section 72 of the APA that the Respondent failed to appear, that there was proper notice of the hearing, that no adjournment had been granted, and it was appropriate to grant the Petitioner’s request to proceed under Section 72 of the APA.

The Judge granted the Petitioner’s request for a Default Judgment on the record, under Section 78 of the APA.

Before the brief hearing concluded, Mr. Wood offered three exhibits for admission into the record. The following exhibits were admitted into the record:

1. Petitioner Exhibit 1 is the May 18, 2001, application Respondent filed for licensure as an insurance agent in Michigan.
2. Petitioner Exhibit 2 is an October 6, 1994, Consent Order in which the

Respondent was ordered to pay restitution to four different consumers, to pay a civil fine of \$2,500 under the Michigan Insurance Code, and to have Respondent's license placed on probation for violations of the Insurance Code.

3. Petitioner Exhibit 3 is a September 1, 1992, Consent Order, in which the Respondent acknowledged that Respondent failed to comply with the requirements of the Michigan Insurance Code, acknowledged various violations of the Insurance Code, was ordered to make restitution of \$606 to the Farmers Insurance Company, and pay a civil fine of \$300 to the State of Michigan.

### **ISSUES AND APPLICABLE LAW**

The issue in this matter is whether or not the Respondent violated Section 1204(4) of the Code, being 1965 PA 218; MCL 500.100 et seq; MSA 24.1100 et seq. Section 1204(4) of the Code states:

After examination, investigation, and interrogatories, the commissioner shall license an applicant if the commissioner determines that the applicant is an employee of, or is authorized in writing to represent, an insurer which is authorized to transact insurance in this state, and the applicant possesses reasonable understanding of the provisions, terms, and conditions of the insurance the applicant will be licensed to solicit, possesses reasonable understanding of the insurance laws of this state, intends in good faith to act as an agent, is honest and trustworthy, possesses a good business reputation, and possesses good moral character to act as an agent. The commissioner shall make a decision on the application within 60 days after the applicant passes the examination or, if the examination has been waived, within 60 days after receipt of a properly completed application and notice of appointment forms.

## **DISCUSSION**

On October 6, 1994, the Respondent entered into a Stipulated Agreement with the Commissioner of Insurance (Commissioner) to resolve Enforcement Case No. 94-223-L. See Exhibit 2.

On September 1, 1992, the Respondent entered into a Consent Agreement in the matter of Enforcement Case No. 92-15111-L. See Exhibit 3.

The Respondent apparently failed to comply with the 1994 Order and, as a result, Respondent's license was revoked and a debt referred to the Michigan Department of Treasury to collect the civil penalty. See Paragraph 5 of the factual allegations contained in OFIS's Complaint attached to the Request for Hearing.

On May 18, 2001, the Respondent completed an application for an agent's license. Question No. 10 on the application asked, "Has any disciplinary action ever been taken by any regulatory agency against you or any business with which you have been directly connected?". The Respondent answered, "No" and a license was issued to the Respondent.

Section 1204(4) of the Code requires that an applicant intends in good faith to act as an agent, is honest and trustworthy, possesses a good business reputation, and possesses good moral character to act as an agent.

The Respondent lied on the application in answering Question No. 10, "No". Respondent clearly knew that there were two prior enforcement actions against Respondent based on the Consent Orders contained in Exhibits 2 and 3. An individual does not forget the fact that he or she has been involved in a Consent Agreement to

pay restitution to injured parties, has his or her license placed on probation, and pays the State of Michigan civil penalties.

These acts do not demonstrate that the Respondent intends to act in good faith as an agent, is honest and trustworthy, possesses a good business reputation or possesses good moral character to act as an agent.

### **FINDINGS OF FACT**

Based upon the record as a whole in this matter, including the fact that the Petitioner was allowed to proceed in the Respondent's absence, and that a Default Judgment was granted, Petitioner Exhibit 1, Petitioner Exhibit 2, Petitioner Exhibit 3, and the pleadings in this matter, the following Findings of Fact are established:

1. The Respondent was disciplined in 1992. See Petitioner Exhibit 3.
2. The Respondent was disciplined in 1994. See Petitioner Exhibit 2.
3. The Respondent applied for licensure as an agent in May of 2001.
4. The Respondent falsely answered Question No. 10 on the May, 2001, application, indicating that there had been no prior disciplinary action. See Petitioner Exhibit 1.
5. The Respondent knew of the previous disciplinary actions against Respondent's license.

### **CONCLUSIONS OF LAW**

The principles that govern judicial proceedings also apply to administrative proceedings. 8 Callaghan's Michigan Pleadings and Practice, 2d ed, Section 60.48,

page 230.

Based upon the facts described herein, the fact that the Petitioner was allowed to proceed in the Respondent's absence pursuant to Section 72, and the fact that the Judge granted a Default Judgment against the Respondent pursuant to Section 78 of the APA, the Petitioner has proven, by a preponderance of the evidence, on this record as a whole, that the Respondent violated the Code.

The Respondent does not intend to act in good faith as an agent, is not honest and trustworthy, does not possess a good business reputation, and does not possess good moral character to act as an agent.

The Petitioner has established that the Respondent's license should be REVOKED.

The Petitioner has proven by a preponderance of the evidence that the Respondent violated Section 1204(4) of the Code. Since the Respondent does not meet the requirements of Section 1204(4) of the Code, Respondent's license should be revoked.

**RECOMMENDED DECISION:**

The undersigned Administrative Law Judge recommends that the Commissioner REVOKE the Respondent's license.

**EXCEPTIONS**

Any exceptions should be filed with the Office of Financial and Insurance Services, Division of Insurance, P.O. Box 30220, Lansing, Michigan, within 20 days of issuance of

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this Proposal for Decision.

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**Edward F. Rodgers**  
**Administrative Law Judge**